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Conference

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 MARIAH LOPEZ,

4 Plaintiff,

5 v.

17 CV 3014 (OTW)

6 PROJECT RENEWAL, ET AL.,

7 Defendants.

8 -----x

New York, N.Y.

9 May 28, 2019

3:00 p.m.

10 Before:

11 HON. ONA T. WANG,

12 Magistrate Judge

13 APPEARANCES

14 MARIAH LOPEZ, PRO SE

15 NYC DEPARTMENT OF HOMELESS SERVICES

16 Attorney for Defendant

17 BY: THOMAS ROBERTS

18 PROJECT RENEWAL

Attorney for Plaintiff

19 BY: RICHARD GREENBERG

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1 (Case called)

2 MS. BAEZ: Mariah Lopez, litigant.

3 MR. ROBERTS: Assistant Corporation Counsel, Thomas  
4 Roberts, for the municipal defendants.

5 MR. GREENBERG: For Project Renewal, Richard  
6 Greenberg.

7 THE COURT: Good afternoon.

8 All right. So I have to apologize because I managed  
9 to wipe my iPad last between the time since our last  
10 conference. So I don't have all of my notes from our prior  
11 conferences before us. But we're going to see if we can move  
12 through the issues. Hopefully, my memory will not be too far  
13 off.

14 OK. So I got the city's proposed order for  
15 Ms. Lopez's family court record.

16 Ms. Lopez, I think at the last conference you were  
17 saying that you had been trying to get them yourself and they  
18 were, the family court was giving you trouble getting them.

19 MS. BAEZ: I had general difficulty. It's not fair to  
20 characterize that I wasn't be able to get any of the records  
21 but getting the entirety of the records was becoming difficult.  
22 But I understand that Legal Aid, so there are two dockets. One  
23 is the family court docket, a pins placement. And the other is  
24 a "D" docket case. I understand that Legal Aid Society, Luis  
25 Sartory, used to be my defense counsel, he has requested all

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1 the records from the court or the court's file. I am sure  
2 Legal Aid has their own file. I think a master court file  
3 would be better and he had asked for that. I believe the  
4 documents filed by Mr. Roberts referencing other material.

5 THE COURT: OK. We have to do a little bit of our  
6 research to make sure that we could get this. So I think we  
7 are able to get the records and have them stored in the record  
8 room where you, each of the parties could access them but  
9 nobody else like the general public can't.

10 However, that ends up making you each having to come  
11 to the court to get the record. So then the next thing we  
12 were, the Court has been looking into whether or not it might  
13 be possible to get the records scanned so that we could provide  
14 you each with CD or DVD which contains all the records.

15 I think this might be a viable option if that's  
16 amenable to you, Ms. Lopez.

17 MS. LOPEZ: What I was going to say is I believe that  
18 although for purposes of this proceeding we require equal  
19 access. I'm amenable to the solution of both us reviewing the  
20 records in some neutral way that the Court determines is fair.  
21 However, going past these proceedings I would not feel  
22 comfortable with the City Law Department having a hard copy of  
23 those files unless there was an order with it saying that they  
24 would be willing to destroy them.

25 THE COURT: Oh, I would absolutely make sure that they

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1 would be.

2 MS. LOPEZ: Then it's fine, your Honor.

3 THE COURT: OK. So the plan would be to have the  
4 files produced to the Court and then we would take care of, we  
5 would try to get them stamped and then each side would get a CD  
6 or a DVD. I'm hesitant to have them transmitted over the  
7 Internet because I think bad things can happen that way. And  
8 then you all have to basically agree that you would just  
9 maintain the file in the format to which it was given to you.  
10 And then at the end of this litigation the defendants would  
11 agree to destroy or return to you their copy. And then that  
12 would, whether they confirmed whether they returned or  
13 destroyed their copy I think that would take care of it.  
14 Obviously, with a representation that they haven't made a copy.

15 MS. LOPEZ: Yes, your Honor.

16 THE COURT: OK. So we'll look into doing that.

17 Mr. Roberts, any objection to that or any thoughts?

18 MR. ROBERTS: No. My only thought -- well, just two  
19 points. One, I suggest maybe that you ask the family court to  
20 send you a disk. I don't know how big this is going to be but  
21 I suspect it may be quite large.

22 THE COURT: We'll look at that. If it's possible,  
23 we'll do it. I'm not sure that we have any control over that.

24 MS. LOPEZ: I got these form matters from ACS.

25 Ms. Lopez is referring to just two cases. They gave me four

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1 cases. I've confirmed the four cases exist. I would have no  
2 idea of what the subject matter of the four cases is.

3 That is all I have to say.

4 THE COURT: All right. Well, we'll get them. And we  
5 do have a protective order in place already, right?

6 MR. ROBERTS: I don't know.

7 THE COURT: Was that something that had been on the  
8 prior --

9 MR. ROBERTS: I don't recall a protective order.

10 THE COURT: OK. Well, we should probably have  
11 something at least at a minimum. I am going to suggest the  
12 four protective orders that's on my website and then for the  
13 parties to review that and consider whether they have any  
14 issues or modifications to that or any concerns. And what I  
15 will do is we'll look into more how we can get the family court  
16 records into and then I'll issue a separate order with that.  
17 And then around that time I'll give you all a deadline on  
18 reviewing the four protective order and then let you know.

19 MS. LOPEZ: My apologies. My pen stopped working,  
20 your Honor.

21 THE COURT: OK.

22 (Pause)

23 THE COURT: You'll get a copy of the transcript, so  
24 don't worry about it too much. So, that takes care of the  
25 family court records.

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1 Ms. Lopez, you had previously had a -- oh, your  
2 opposition date for the motion is now May 31.

3 MS. LOPEZ: I filed it today.

4 THE COURT: OK.

5 MS. LOPEZ: And I wanted to apologize. I had to  
6 purchase a new computer. My Apple device also stopped working  
7 the last week of April. So I was unable to make a deadline. I  
8 extend my apologies to the Court.

9 THE COURT: But you filed it already.

10 MS. LOPEZ: Not just, not by the original deadline.

11 THE COURT: Great. Plaintiff's motion for class  
12 certificate. So I understand that you need counsel. I don't  
13 think you can represent yourself. You can represent yourself  
14 obviously but since you are not a lawyer, you can't represent  
15 other members of a class.

16 MS. LOPEZ: May I, your Honor?

17 THE COURT: Yes.

18 MS. LOPEZ: So the way I understand it -- and I'm just  
19 go on a slight tangent to say that I found this theory or  
20 strategy that I am attempting to assert in a chat group of some  
21 pretty established law types from Yale University. Apparently,  
22 from my understanding, Section 23 is more of a direction or of  
23 a guidelines or guidance to the Court and 23(A)(1) through (4)  
24 is specifically meant to guide the Court as it reviews the  
25 certification requirements for a class.

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1 Obviously, in the same way someone doesn't have to be  
2 a lawyer to present before the Court for a TRO or any number of  
3 complex and lofty legal endeavors, it is my understanding that  
4 one doesn't need to be a lawyer to present before the Court,  
5 right. 23(A)(1) through (4) requires certain facts be  
6 established. Those are facts. There's nothing subjective  
7 about one through four. So section (A)(1) through (4) would  
8 then trigger 23(g).

9 And I'm not positing that I am an attorney or that I  
10 am capable, your Honor, of representing the class. In fact,  
11 your Honor, just the opposite. I would like to direct your  
12 Honor's attention to a guest with me this afternoon. Behind me  
13 is a gentleman by the name of Jamel Young, who I've mentioned  
14 at least by circumstance within these proceedings before. He  
15 is member of the trans community. He is also an Army veteran  
16 and he's been shackled -- Don't excuse the pun. Pun  
17 intended -- to the five boroughs by an erroneous arrest in  
18 Bronx County that because New York is not his primary residence  
19 has resulted in him becoming homeless.

20 Jamel being trans-masculine, your Honor, is important  
21 because it sort of in some ways rounds off a class as 23 or A 1  
22 through 4 seeks to have clarified through the courts sort of  
23 exercise of 23(A). 23(A) is meant to make sure that there is a  
24 reason for a class -- I am paraphrasing -- that the class is  
25 numerous and that multiple law suits of a similar type alleging

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1 similar allegations against similar parties don't clog up the  
2 court system, so to speak.

3 It also speaks to the ability of the class. This is  
4 where I think it's important and I think it's what your Honor  
5 was referencing in terms of what it might have believed  
6 plaintiff was trying to do.

7 The representative parties will fairly and adequately  
8 protect the interests of the class. I believe Congress  
9 intended that that just like (inaudible), your Honor, the  
10 plaintiffs were young people that had experienced all manner of  
11 placement within ACS. Some of the plaintiffs in (inaudible)  
12 were gay kids that were only in foster homes. Some had never  
13 made it to congregate facilities and so they chose a certain  
14 sample population of gays in foster care to cover the gamut of  
15 what could happen to a kid in care who had never been to a  
16 foster group home or a congregate facility.

17 So it's my belief that so many transgender people or  
18 gender variant people presenting before the Departement of  
19 Homeless Services with requests for reasonable accommodation  
20 clear and documented medical conditions that would require  
21 reasonable accommodations under the ADA, not to mention all  
22 making similar and unique claims under First Amendment  
23 violations by needing to hide one's trans identity and new  
24 violations of gender, your Honor, would satisfy that if a group  
25 of individuals looking as diverse as myself, Jamel, Accassa and



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1 other transgender people presenting as diversely as we do, we  
2 satisfy without a doubt one through three of Section A of the  
3 prerequisite Rule 23.

4 And then because we do as a class factually present it  
5 for Court, we do round out a good group of transgender people  
6 as a sample size that we would be entitled to class  
7 certification under Section 23 and 23(g) would be triggered.

8 I also want to note, your Honor, that although I've  
9 filed a motion for class certification, I'm not asking that the  
10 Court consider that on its own. The reason that I physically  
11 brought Jamel here is that we have every intention, myself  
12 Jamel, Jamel also works within Star of submitting supplemental  
13 documents of other transgender people.

14 Lastly, bringing Jamel in personally putting the  
15 municipal defendants on notice about his requests for  
16 reasonable accommodations. So Jamel is set to appear for a  
17 mandated court appearance on the 31st. He may be exploring the  
18 opportunity of forthwith trial. That would require Mr. Young  
19 to be in the New York area for an immediate extended period of  
20 time and he's homeless.

21 So Mr. Roberts had said to me and Accassa that the  
22 city policy for screening any trans person, they have to  
23 present into a shelter which in itself might be a violation to  
24 the reasonable accommodation to be screened. So just like  
25 when I had to go to Marshals I had to report to Franklin Avenue

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1 shelter. We realize that that probably wasn't the smartest  
2 move.

3 Likewise, Mr. Roberts is asking Jamel or just to be  
4 the best advocate I can be in the context of asking for class  
5 certification from the Court because I understand it's a big  
6 deal. Mr. Roberts is asking for trans men who fear rape and  
7 physical violence from men that occupy most mens shelters run  
8 by the municipal defendants. This isn't apples and oranges.  
9 This isn't when -- in the same as another shelter.

10 So the issue I think that just to go back real quick.  
11 I think the issues all trans people have with the intake and  
12 screening policy, there were issues of fact that are common to  
13 certain trans people as it relates to win west when obviously  
14 class certification would pertain, your Honor, to some of the  
15 element -- excuse me -- some of the allegations made out in  
16 this complaint.

17 But I just want to be clear that plaintiff is very  
18 aware that class certification is a big thing, so to speak and  
19 that also class certification would allow a broader class of  
20 people to come forward and make allegations pertaining to their  
21 stay at Marshals s within the limited time described in this  
22 complaint but trans gender people that have never been at  
23 Marshals that either avoid the shelter system. And that in  
24 itself is a claim, your Honor, that I'd argued myself and other  
25 trans gender people are due process and entitled to our day in

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1 court. We are arguing that damage, the injury and I'm going to  
2 have a seat right now, but Jamel has been driving up and down  
3 the east coast since the last time that he stayed with me in a  
4 single room no bigger than a common bathroom with his partner,  
5 all trying to tough out avoiding the homeless shelter system  
6 that we think could harm us.

7 So this is sort of the class we are trying to make out  
8 and I think that sort of as some background to the motion.

9 THE COURT: OK. All right. So I think what we'll do  
10 is since it sounds like you are still in the process of filing  
11 some supporting documents is we'll wait until you file the  
12 things you say you are going to file and then maybe put the  
13 parties on a briefing schedule. OK?

14 MR. ROBERTS: Your Honor?

15 THE COURT: Yes, Mr. Roberts.

16 MR. ROBERTS: It's beyond -- that pro se non lawyers  
17 may not represent other people. I really object to having to  
18 brief this.

19 And with regard to Jamel Young, I am told he's a  
20 veteran. The DHS is one of the reasons why we request to go  
21 through assessment. They have a special assessment for  
22 veterans, a special facility for veterans and Ms. Lopez is  
23 here. If Jamel Young wishes to speak to Ms. Lopez afterwards,  
24 she can take his information. But the proposition the Court is  
25 going to entertain a motion for class certification from a pro

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1 se counsel is really not productive for any of the parties or  
2 for the Court.

3 THE COURT: I already said I am going to take a look  
4 at the motions and papers that are filed and it's necessary for  
5 the city to provide a response, I will direct the city to  
6 provide a response. OK? And it may be as simple as what you  
7 are saying which is that you can't, pro se plaintiff cannot  
8 represent a class. OK? I'm not going to rule on Ms. Lopez's  
9 motion before it's fully submitted. OK? Or at least before  
10 she's been able to submit what she feels she needs to submit.  
11 OK? I will take a look at it and if we need to have another  
12 conference or need to resolve it some other way, we will. OK?

13 MS. LOPEZ: I'm not trying to represent a class of  
14 people. Like I said, we're trying to as a group trigger the  
15 mechanics of the statute pertaining to counsel being appointed  
16 for a class. I believe Congress's intention as to cover  
17 exactly what's happening here, your Honor.

18 THE COURT: We will take a look at it. I understand  
19 what the issues are. We'll take a look at Rule 23 and if we  
20 need a response from the city, we'll direct a response from the  
21 city. OK? All right. That's all I had on my agenda for today  
22 because I know that we were looking for a response from  
23 Ms. Lopez on a motion to dismiss.

24 So is there anything else that we need to address  
25 right now?

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1 MS. LOPEZ: Yes, your Honor. Please.

2 THE COURT: Oh, HIPAA releases. Did we have an issue  
3 with those?

4 MS. LOPEZ: We do. I am trying to do my best to abide  
5 by the Court's directive the last time and that the Court  
6 exhaust its own guidelines or objectives for the conference  
7 before I move on to my list of issues cause this way I can know  
8 what the Court's concerns are. I actually have a bullet to  
9 address with HIPAA and the discovery and stuff when the Court  
10 is done.

11 MR. ROBERTS: Your Honor, with regard to the HIPAA  
12 releases I sent both draft HIPAA release and a release for  
13 sealed record pursuant to Criminal Law 16050 and 165 to  
14 Ms. Lopez on May 15. I have not received a response from her  
15 but I am happy to hand up to the Court if you'd like to see  
16 what I sent her with a draft release that I requested her to  
17 sign and a cover letter.

18 THE COURT: OK. So what's the issue again? I'm  
19 sorry.

20 Ms. Lopez.

21 MS. LOPEZ: So, I'm actually just going to go in the  
22 order that I had my list. It helps me in my ADHD, your Honor.  
23 I apologize.

24 So the number one thing is that I take that this is  
25 the first time I've not received a transcript, your Honor,

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1 after the Court had directed that I receive a transcript. So  
2 if I may, when we were before the Court last, the Court was  
3 very much trying to assist settlement talks by helping  
4 plaintiff get counsel in any way that plaintiff can, including  
5 directing the clerk to find me counsel. But in addition to  
6 directing me to contact a certain firm and direct the firm's  
7 attention to the portion of the transcript which would  
8 highlight the discussions in open court where this Court would  
9 be pleased if the firm took the case. This is the first time  
10 since we have been in front of your Honor that the defendants  
11 have failed to provide me with a --

12 THE COURT: Stop right there. Let's not infer any bad  
13 motive. If you haven't ordered the transcript, I always direct  
14 the defendant to order the transcript, provide it to Ms. Lopez.  
15 It's possible that this has been some delay or whatever.

16 Now getting back to what we are talking about,  
17 potentially having settlement discussions. I thought that  
18 settlement discussions were off the table.

19 MS. LOPEZ: Is that why they just responded?

20 THE COURT: That's why I'm a little confused.

21 MS. LOPEZ: Your Honor, I appreciate that everyone  
22 here is a legal professional that has way more cases than this  
23 one and this might be every day the center of my universe right  
24 now but because of that I keep a better mental note probably of  
25 most here. I am almost certain that transcript would have been

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1 helpful. The order of the last proceeding was to make sure I  
2 was directed as plaintiff and I followed the Court's directive.  
3 So in my mind it's sort of linear that way. I was directed to  
4 reach out to Emery, whatever the firm is, and to direct their  
5 attention to the transcript. I couldn't do a portion of my  
6 homework because I wasn't given a transcript. Moving on --

7 THE COURT: So we'll give you more time after you get  
8 a transcript.

9 MS. LOPEZ: Towards the end of the proceeding the  
10 issues about the HIPAA release form -- because this is not a  
11 small issue and I guess this is why we are here today. We need  
12 to discuss this. The issue of the HIPAA release form came up.  
13 And I believe the way we start sort of left it is somewhat  
14 where Mr. Roberts is in terms of us -- somewhat because I have  
15 a caveat on that -- on where we are today with parties are to  
16 work jointly together. The objectives being out of all this  
17 rigmarole are to get family court records to advance -- cause  
18 this where I get a bit confused. If settlement negotiations  
19 were all the way off the table, then I would be the one with  
20 the ball in my court to be having conversations about expedited  
21 discovery. I don't have any subpoenas up here. I'm pretty  
22 sure that's not where we were at. I'm pretty sure where we  
23 were at was having a conversation about family court records.  
24 But getting to the instant matter, we were also having a  
25 conversation about what they need and they don't need, your

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1 Honor.

2 And I need to really dig my heels in on this, right,  
3 because even based on what Mr. Roberts is asking for, it's one  
4 or the other. You want to move forward with trying in best  
5 faith to figure out the consistency of my medical conditions  
6 and needs and also any appropriate settlement that may come  
7 from those needs not being met for the last two years or we're  
8 barely towards trial and he is billing out requests for  
9 criminal records stuff.

10 And by the way, if we're going in that direction,  
11 Project Renewal employed all ex-cons. I will submit my own  
12 request for criminal records. But in keeping on trying my best  
13 to try to bring this case to a resolution outside of class  
14 litigation, outside further litigation really trying to stop  
15 this case, I asked this Court cause I had notes, to please  
16 today once and for all, can we clarify so there will be no  
17 contention, no argument, no ambiguity, what the questions are,  
18 the specific legal questions that the municipal defendants want  
19 to answer with all the records we've discussed this far.  
20 Because I warn the Court and the municipal defendants that they  
21 are right in thinking that there are an immense amount of  
22 records in that family court file. And if we just start at  
23 this point without knowing what they want, without being clear  
24 it's a discovery posture we're in, then this is just more  
25 wasting of time.



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1           And I will say, your Honor, I don't appreciate the  
2 fact that I have tried really hard to reach out to the  
3 municipal defendants to try to expedite getting the records, to  
4 try to expedite curating said records so we could don't have to  
5 look at all the records from when I was 11 to 24. That is the  
6 potential.

7           So I am making a claim that could trigger them  
8 potentially to be within their right, your Honor, to look at  
9 that entire timeframe. So I was trans that whole time. There  
10 is a possibility that if we don't narrow down here, and I think  
11 it's appropriate, what they'd be looking for, the legal  
12 questions, next steps for all parties, we are just going to be  
13 fishing, fishing, fishing within the discovery/settlement  
14 process for months and month and months.

15           THE COURT: All right. I hear you.

16           What I'd like to do is I think we should table the  
17 HIPAA releases for now because we're going to get the family  
18 court records. Let's see, what once an appropriate protective  
19 order is entered and what you get from the family court  
20 records, then let's continue to talk about discovery.

21           So do the defendants have any other issues you need to  
22 address today?

23           MR. ROBERTS: No, your Honor.

24           THE COURT: OK. If the parties consent -- if you  
25 don't consent I won't do it -- is to propose going off the

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1 record for a few minutes so that I can discuss with Ms. Lopez  
2 separately and then discuss with defense counsel separately  
3 some of your thoughts about settlement. This would be similar  
4 to what I would normally do as a presettlement telephone call  
5 off the record. And I recognize that this is a slightly  
6 unorthodox process, but if either party is willing to do that,  
7 we're not going to talk about legal argument or anything like  
8 that but it's just to -- I understand there's a lot of acrimony  
9 and a lot of history between the parties and I'd like a speak  
10 to each side separately without them feeling that the other  
11 side is hearing what they have to say about how this case  
12 should proceed. OK?

13 So, everybody needs to consent to that. If that  
14 doesn't happen, it's not going to happen. And the rules, Rule  
15 408 and settlement procedures rules will govern the ex parte  
16 communications that I have which means that you are not to  
17 refer to them with each other or use them against the other  
18 side. OK? Anything that I said back there because it's really  
19 to try to get a handle on where the parties want to go and to  
20 sort of seeing how hard I should push potentially to settlement  
21 and how hard I should or whether we should just go into  
22 discovery of which the family court records are sort of the  
23 beginning. OK?

24 MS. LOPEZ: I consent.

25 MR. ROBERTS: I consent as well.

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1 MR. GREENBERG: I consent.

2 MS. BAEZ: I consent.

3 THE COURT: So what I'm going to do first is we're  
4 really going to take like five minutes for each side and then I  
5 envision wrapping this conference up to just very briefly have  
6 a little conversation. OK?

7 All right. So sit tight. I'll ask Ms. Moore to go  
8 off the record but I don't want to take more than ten minutes.  
9 OK?

10 (Recess)

11 THE COURT: We're back on the record.

12 All right. So, I will issue a written order after  
13 this conference that just sort of sets out some of the  
14 procedural issues we talked about with the family court records  
15 and then also with the motion for class cert. I am going to  
16 also direct that the defendants order the transcript, share the  
17 cost and provide a copy to Ms. Lopez. If you haven't done that  
18 with the last conference please do so, so that Ms. Lopez can  
19 follow-up with seeking, potentially seeking pro bono counsel  
20 either for purposes of this case or for the purposes of  
21 settlement.

22 And on settlement, after talking to each of you  
23 separately I want to say I am not giving up on you. OK? I  
24 actually think that there may be a way to get to a settlement  
25 but it might be a difficult process. Both sides may need to go

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1 somewhere and sort of dial back on some of the things you're  
2 looking for. What I understand and I am not going to get into  
3 too much detail because we are on the record but what I got  
4 from speaking to both of you is that I think there's a slight  
5 disconnect on the city's latest offer. So I'm going to ask, I  
6 am going to direct that Mr. Roberts and Mr. Greenberg discuss  
7 with Ms. Lopez after this conference is over, specifically,  
8 just go over the letter that you sent and what that entails.

9 Now my understanding is that the components of what  
10 Ms. Lopez would seek roughly breakdown to three categories.  
11 One relates to housing. The second relates to a monetary  
12 component. And then the third relates to policy changes. And  
13 you know that each of these three, the defendants may have  
14 limited ability in what they can do.

15 And so you know, for example, sometimes some policy  
16 changes, for example, Ms. Lopez, that you would like or you  
17 would like to see just might not be doable in the near term.  
18 For example, I would like to see a reversal in climate change  
19 but just by ordering it doesn't make it so and it might not be  
20 possible. A lot of other things have to fall into place, most  
21 of which I have no control over.

22 So I see the policy changes as part of that. I have  
23 settled civil rights cases before where there's a policy change  
24 component but largely in my experience that's really hard to do  
25 because unless the city was doing that anyway, it's like it

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1 will move at a glacial pace and that may not be what you want  
2 especially when it comes to housing and monetary components.  
3 OK?

4 My sense is that the monetary components are areas  
5 where you both may have the most ability to move because it is  
6 money. That said, recognize that with the defendants that  
7 there's multiple layers of approval that need to happen. So  
8 sometime again, the individual lawyers who we're talking to may  
9 have all the desire in the world to get you where you need to  
10 be or want to be but there is just some, there is only a  
11 limited amount that they can do. Like I wish climate change  
12 wasn't happening but I can issue all I orders I want and it's  
13 not going to change anything. And then the housing component,  
14 like think about how each of these, prioritize how each of  
15 those matters to you and sort of what range you're willing to  
16 accept.

17 And then I guess my last sort of piece of advise on  
18 that is when we want to talk about settlement and really want  
19 settlement, it comes down to what's acceptable, not sort of  
20 what you would prefer unfortunately. I think that a good  
21 settlement is a settlement the parties agree because otherwise  
22 you don't have a settlement. And oftentimes that's something  
23 that neither side is terribly happy with but you know what,  
24 you're also, Ms. Lopez, you're plaintiff. Have a right to your  
25 day in court and if you want to litigate, that's also your

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1 prerogative. OK?

2 MS. LOPEZ: May I just -- I actually, as much as I'd  
3 like to be productive and streamline, I do have an issue with  
4 Mr. Greenberg and Mr. Roberts sort of jointly now becoming one  
5 entity even it's for the limited purposes of trying to find out  
6 where we all are for moving forward. They don't have exactly  
7 the same objectives, at least as per my latest conversation  
8 with Mr. Greenberg, we are not all speaking on the same  
9 wavelength or --

10 THE COURT: OK. You know what, I just call them the  
11 defendants, lumping them all together, but if you can settle  
12 with one entity and you can't with the other, you are free to  
13 do that. OK? So that is something you are willing to, you can  
14 explore to your heart's content.

15 So I think what we'll do is I'll set a date for  
16 another conference sometime in the summer and what we'll do is  
17 one week before the conference you can write in with your  
18 proposed agenda. If you want to convert it to settle a  
19 conference because you have had discussions we could do that or  
20 we're just convert it to the status conference and we'll see  
21 where you are. OK?

22 MS. LOPEZ: Sure. And with possibility of an order,  
23 your Honor, in keeping with the municipal defendants' desire to  
24 have a full picture of my mental health and medical history, I  
25 believe it would be appropriate, I've discussed this on the

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1 record before, but for the Court to direct even though they  
2 might do this on their own, to direct the municipal defendants  
3 to identify a competent mental health provider and expert in  
4 the field of gender identity disorder or gender dysphoria.  
5 Ideally, one that knows myself and my records and I'd place  
6 Dr. Christine Wheeler's name up for possibility.

7 And I see Mr. Roberts writing it down which gives me  
8 hope but I'd also ask this Court to direct the municipal  
9 defendants. It is the municipal defendants that have been  
10 hanging both settlement and discovery on medical records and a  
11 medical view and lens of this case. And their position, I  
12 think it's wholly appropriate given Dr. Wheeler's history with  
13 reviewing my medical information and her place in the case  
14 Lopez v. Mattingly where she had to sit with me for a very,  
15 very long time to simplify things. I think her and I get along  
16 well. Our relationship is established. Her credentials are  
17 impeccable and the city has paid her before. They've chosen  
18 her.

19 THE COURT: All right. So for the status letter  
20 before the next conference which we still have to schedule, one  
21 of the things that the defendants and the city defendants  
22 should consider is explaining to me, to the Court, where the  
23 need for a mental health provider regarding gender dysphoria  
24 comes into play, both in litigation and for settlement purposes  
25 and then also if you made any progress either discussing with

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1 Ms. Lopez who that person should be or what your thoughts are  
2 if you can't come to an agreement, where you are on that. OK?

3 MS. LOPEZ: OK.

4 THE COURT: All right. Let's pick a date for the next  
5 conference. July 10 at 11 which makes your status letter due  
6 July 2nd or July 3rd. Although if that ends up being a  
7 problem, you can submit them July -- and we'll try to figure  
8 out. We'll go from there.

9 All right. Thank you. We are adjourned.

10 (Adjourned)